

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

ANGELA V. JONES,)	
)	
Plaintiff,)	
)	
vs.)	Civil No. <u>12-2792-STA/tmp</u>
)	
FEDERAL EXPRESS,)	
)	
Defendant.)	
)	

REPORT AND RECOMMENDATION

On September 12, 2012, the plaintiff filed her complaint against defendant and summons was issued. On January 7, 2013, District Judge S. Thomas Anderson entered an Order to Issue and Effect Service of Process. Judge Anderson stated in his order that "within thirty (30) days of the date of entry of this order, either by appearing in person or through the mail, Plaintiff shall present the Clerk with a properly completed summons for Defendant. If the summons is in proper form, the Clerk shall sign, seal, and issue it to Plaintiff for service on Defendant." The order further stated that "Plaintiff is responsible for ensuring that service is effected on Defendant pursuant to Rule 4 of the Federal Rules of Civil Procedure" and "Plaintiff shall file proof of service pursuant to Federal Rule of Civil Procedure 4(1)." Plaintiff was warned that "Failure to comply with these requirements, or any

other order of the Court, may result in the dismissal of this case without further notice." Finally, Plaintiff was advised that "the time limit set forth in Federal Rule of Civil Procedure 4(m) commenced running on September 12, 2012."

As it appeared to the court based on the docket that plaintiff failed to serve the defendant within 120 days of the filing of the complaint, the court entered an order on April 3, 2013, directing the plaintiff to show cause within twenty (20) days why her case should not be dismissed pursuant to Rule 4(m) of the Federal Rules of Civil Procedure for failure to serve the summons and complaint within 120 days. The plaintiff was warned that failure to respond to the show cause order could result in dismissal of her case without further notice from the court. The plaintiff has failed to respond to the show cause order, and has still not served the defendant. It appears to the court, therefore, that the plaintiff's case should be dismissed without prejudice for failure to serve the defendant.

Accordingly, it is recommended that this case be dismissed without prejudice for failure to serve the defendant pursuant to Rule 4(m) of the Federal Rules of Civil Procedure.

Respectfully submitted,

s/ Tu M. Pham
TU M. PHAM
United States Magistrate Judge

May 15, 2013
Date

NOTICE

ANY OBJECTIONS OR EXCEPTIONS TO THIS REPORT MUST BE FILED WITHIN FOURTEEN (14) DAYS AFTER BEING SERVED WITH A COPY OF THE REPORT. 28 U.S.C. § 636(b)(1)(C). FAILURE TO FILE THEM WITHIN FOURTEEN (14) DAYS MAY CONSTITUTE A WAIVER OF OBJECTIONS, EXCEPTIONS, AND ANY FURTHER APPEAL.